

## Message Text

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C O N F I D E N T I A L ROME 12371

FROM AMBASSADOR LODGE'S OFFICE

E.O. 11652: GDS

TAGS: PFOR, SP, VT

SUBJECT: VATICAN AND SPAIN: TOWARD A NEW ERA OF RELATIONS

REF: MADRID 5525; ROME 6270 (NOTAL); MADRID 5735 (NOTAL)

SUMMARY: THE SIGNING JULY 28 OF VATICAN-SPANISH ACCORD ABRO-  
GATING TWO KEY PROVISIONS OF 1953 CONCORDAT, SIGNIFIES VATI-  
CAN'S WILLINGNESS TO MODERNIZE CONCORDAT TO SUPPORT GRADUAL  
PROCESS OF CHANGE IN SPAIN IN HOPE OF PREVENTING REPETITION  
THERE OF TRAVAIL WHICH PORTUGAL UNDERWENT IN LAST TWO YEARS.  
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ADDITIONALLY, IT UNDERLINES ADOPTION BY BOTH PARTIES OF

"STEP-BY-STEP" TECHNIQUE FOR MODIFICATION OF CONCORDAT RATHER THAN DIFFICULT GLOBAL CONCORDAT REVISION AS INSTRUMENT FOR REALIGNING CHURCH-STATE RELATIONS IN SPAIN. END SUMMARY.

1. ON JULY 28, VATICAN SECRETARY OF STATE, CARDINAL VILLOT AND SPANISH FOREIGN MINISTER OREJA SIGNED ACCORD MODIFYING CONCORDAT OF 1953. SPECIFICALLY, NEW ACCORD ABROGATES TWO ARTICLES OF CONCORDAT: ARTICLE 7 REGARDING APPOINTMENT OF BISHOPS AND ARCHBISHOPS, AND ARTICLE 16 REGARDING CIVIL TRIAL OF RELIGIOUS PERSONS.
  2. ACCORDING TO ACCORD, NOMINATION OF BISHOPS AND ARCHBISHOPS IS WITHIN EXCLUSIVE COMPETENCE OF VATICAN, ALTHOUGH HOLY SEE IS REQUIRED TO GIVE GOS NOTIFICATION AND GIVE 15 DAYS TO MANIFEST POSSIBLE CONCRETE OBJECTIONS OF A GENERAL POLITICAL NATURE. THUS, THE SPANISH CHIEF OF STATE HAS, IN FACT, RENOUNCED "PRIVILEGE OF PRESENTATION" OF BISHOPS WHICH HE HAS EXERCISED SINCE 15TH CENTURY. HE NEVERTHELESS RETAINS MODIFIED "PRIVILEGE OF PRESENTATION" WITH REGARD TO NAMING VICARIATO GENERALE CASTRENSE, E.G., PERSON SUPERVISING MILITARY CHAPLAINS. IN THIS SINGLE CASE, A LIST IS PREPARED BY MINISTRY OF FOREIGN AFFAIRS AND NUNCIATURE, AND KING SELECTS PERSON FOR SUBMISSION TO POPE.
  3. IN CASE OF CRIMINAL ACCUSATION OF "CLERIC OR RELIGIOUS PERSON," THE NEW ACCORD REQUIRES SPANISH AUTHORITIES TO NOTIFY RELIGIOUS SUPERIORS (IN CASE OF BISHOPS, THE HOLY SEE), AND THE SPANISH STATE RECOGNIZES THE COMPETENCE OF CHURCH COURTS REGARDING INFRACTIONS OF ECCLESIASTICAL LAW. THUS, THE CHURCH IN SPAIN HAS CEDED THE TRADITIONAL RIGHT OF "FORO ECCLESIASTICO" WHICH DURING FRANCO REGIME BROUGHT SERIOUS CONFLICTS IN CHURCH-STATE RELATIONS.
  4. BEYOND INTRINSIC SIGNIFICANCE OF ABROGATION OF TWO KEY ARTICLES IN CONCORDAT, THE PREAMBLE TO THE ACCORD ENUNCIATES CERTAIN PRINCIPLES WHICH APPEAR TO HAVE MORE GENERAL SIGNIFICANCE. (ALTHOUGH VATICAN HAS NOT YET RELEASED DOCUMENT OF NEW ACCORD, APPARENTLY AGREED TO PRIOR PUBLICATION IN SPAIN IN CONNECTION WITH PRESENTATION TO CORTES, WE HAVE OBTAINED COPY FROM SPANISH EMBASSY TO HOLY SEE.) IN THE PREAMBLE, THE
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- TWO PARTIES:
- TAKE COGNIZANCE OF PROFOUND TRANSFORMATION WHICH SPANISH SOCIETY HAS KNOWN IN THESE LAST YEARS, WHICH ALSO RELATE TO RELATIONS BETWEEN THE POLITICAL COMMUNITY AND RELIGIOUS CONFESSIONS AND BETWEEN CATHOLIC CHURCH AND THE SPANISH STATE.
  - TAKE NOTE THAT VATICAN COUNCIL II ESTABLISHES AS FUNDAMENTAL PRINCIPLES TO WHICH RELATIONS BETWEEN CHURCH AND STATE MUST CONFORM NOT ONLY MUTUAL INDEPENDENCE OF BOTH PARTIES IN

THEIR OWN SPHERES, BUT ALSO HEALTHY COLLABORATION BETWEEN ,  
THEM, AND THAT COUNCIL AFFIRMS RELIGIOUS LIBERTY AS A RIGHT  
OF MAN WHICH MUST BE RECOGNIZED IN THE JUDICIAL NORMS OF SOC-  
IETY, AND TEACHES THAT LIBERTY OF THE CHURCH IS A BASIC

PRINCIPLE OF RELATIONS BETWEEN CHURCH AND PUBLIC POWERS AND  
THE ENTIRE CIVIL ORDER.

-- GIVE RECOGNITION TO FACT THAT THE SPANISH STATE HAS  
GIVEN LEGISLATIVE CONTENT TO RIGHT OF RELIGIOUS LIBERTY IN  
LAW OF JULY 1, 1967, AND HAS RECOGNIZED THAT ITS NORMS MUST  
TAKE INTO ACCOUNT THAT MAJORITY OF SPANISH PEOPLE PROFESS  
CATHOLIC RELIGION.

5. THE PREAMBLE ALSO STATES THAT THE TWO PARTIES AGREED ON  
NEED FOR REVISION OF AUGUST 27, 1953 CONCORDAT AND HAVE DECIDED  
TO PROCEED ON THE BASIS OF SPECIFIC ACCORDS, AND PLEDGE THEM-  
SELVES TO UNDERTAKE THE STUDY OF VARIOUS DIFFERENT MATTERS  
WITH THE OBJECTIVE OF ARRIVING AS EARLY AS POSSIBLE AT CON-  
CLUSION OF DIFFERENT ACCORDS TO GRADUALLY SUBSTITUTE THE AP-  
PROPRIATE DISPOSITIONS OF THE EXISTING CONCORDAT.

6. COMMENT: THE ACCORD HAS SURPRISED VATICAN OBSERVERS BOTH  
WITH REGARD TO TIMING AND TECHNIQUE. AS TO TIMING, IT APPEARS  
THAT KING JUAN CARLOS' JULY 15 OFFER (MADRID 5525) TO UNI-  
LATERALLY RENOUNCE RIGHT OF PRESENTATION OF BISHOPS WAS GEN-  
UINE SURPRISE. BOTH SPANISH AMBASSADOR TO HOLY SEE AND VATICAN  
FOREIGN MINISTER CASAROLI WERE ON VACATION AND HAD TO BE SUM-  
MONED TO ROME FOR SIGNING CEREMONY. APPARENTLY KING JUAN  
CARLOS MUST HAVE APPEALED DIRECTLY TO POPE THROUGH PAPAL  
NUNCIO IN ORDER TO ARRANGE FOR CEREMONY WHICH WAS OBVIOUSLY  
DICTATED BY KING'S DOMESTIC POLITICAL OBJECTIVES--E.G., HIS  
WISH TO HAVE CHURCH BENEVOLENCE DURING PERIOD IN WHICH HE IS  
ATTEMPTING TO INTRODUCE CHANGES IN SPANISH INSTITUTIONS. IN  
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AGREEING, POPE HAS SIGNALLED UNEQUIVOCAL SUPPORT OF PRESENT  
COURSE OF PEACEFUL CHANGE IN POST-FRANCO SPAIN.

7. THE SURPRISE AS TO TECHNIQUE IS PROBABLY RELATED TO THE  
TIMING ELEMENT BECAUSE IN THE LAST VATICAN/GOS CONSULTATIONS  
APRIL 12-13, 1976, THERE WAS NO PRECISE AGREEMENT ON WHETHER  
OBJECTIVE OF NEGOTIATIONS WAS A NEW CONCORDAT OR GROUP OF  
AGREEMENTS ON SEPARATE SUBJECTS (ROME 6270). FUTURE NEGOTIA-  
TIONS ARE LIKELY TO CENTER ON SUCH ISSUES AS STATE FINANCING  
OF RELIGIOUS INSTITUTIONS, MARRIAGE AND TEACHING OF RELIGION  
IN SCHOOLS. OUR IMPRESSION IS THAT DEBATE ON THESE ISSUES  
HAS NOT BEEN AS WIDE-RANGING AS ON TWO ISSUES DEALT WITH IN  
PRESENT ACCORD. THUS, PROCESS OF CODIFICATION INTO VATICAN/  
GOS ACCORD MAY TAKE SOME TIME, ALTHOUGH GENERALLY PROGRESSIVE  
CAST OF SPANISH CHURCH HIERARCHY MAY ASSIST IN ACHIEVING A

CONSENSUS ON THESE ISSUES AND THEREBY EXPEDITE NEGOTIATIONS.

8. FROM AN INTERNATIONAL PERSPECTIVE, THE VATICAN-GOS ACCORD IS LIKELY TO HAVE CONSEQUENCES FOR VATICAN-ITALIAN RELATIONS. IN THIS RESPECT, THE STEP-BY-STEP TECHNIQUE ADOPTED IN THE SPANISH CASE MAY PROVIDE BOTH PRECEDENT AND IMPETUS FOR THE OVERDUE REVISION OF THE ITALIAN CONCORDAT. VOLPE

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